

S 7780

## CONGRESSIONAL RECORD—SENATE

July 16, 1981

"§ 1118. Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons given entry into the United States for permanent residence pursuant to section 7 of the Central Intelligence Agency Act of 1949

"(a) Whoever kills or attempts to kill a person given entry into the United States for permanent residence pursuant to the provisions of section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) Whoever engages in conduct proscribed by section 112, 878, or 1201 of this title against any person described in subsection (a) shall be punished as provided under those sections."

(c) Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 1119. Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons present in the United States under intelligence auspices

"(a) Whoever kills or attempts to kill a person certified by the Director of Central Intelligence or his designee to be present in the United States under the auspices of any department or agency within the Intelligence Community (as defined in section 4-207 of Executive Order 12036, January 24, 1978, or successor orders) shall be punished as provided under sections 1111, 1112, and 1113 of this title, except that any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years.

"(b) Whoever engages in conduct proscribed by section 112, 878, or 1201 of this title against any person described in subsection (a) shall be punished as provided under those sections."

(d) The table of sections for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"1118. Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons given entry into the United States for permanent residence pursuant to section 7 of the Central Intelligence Agency Act of 1949.

"1119. Murder, manslaughter, assaults, threats, extortion, or kidnapping of persons present in the United States under intelligence auspices."

#### TITLE VI—PERSONNEL MANAGEMENT PROVISIONS

##### Subtitle A—Defense Intelligence Agency SHORT TITLE

SEC. 601. This subtitle may be cited as the "Defense Intelligence Agency Personnel Management Act of 1981".

##### CIVILIAN PERSONNEL MANAGEMENT

SEC. 602. (a) Chapter 81 of title 10, United States Code, is amended by inserting the following new section after section 1586:

"§ 1587. Civilian personnel management in the Defense Intelligence Agency

"(a) (1) The Secretary of Defense (or his designee) may, without regard to the provisions of title 5 relating to the establishment of (and appointment to) positions in the civil service

"(A) establish such positions for civilian officers and employees in the Defense Intelligence Agency as may be necessary to carry out the functions of such Agency, and

"(B) appoint individuals to such positions.

"(2) The Secretary of Defense (or his designee) shall fix the rates of basic pay for positions established under paragraph (1) in relation to the rates of basic pay contained in the General Schedule under section 5332 of title 5 for positions subject to such Schedule which have corresponding levels of duties and responsibilities. Except for positions in the Senior Defense Intelligence Executive Service, no officer or employee of the Defense Intelligence Agency may be paid basic compensation at a rate in excess of the highest rate of basic pay contained in such General Schedule.

"(b) (1) Notwithstanding subsection (a), the Secretary of Defense (or his designee) may establish a Senior Defense Intelligence Executive Service in the Defense Intelligence Agency comparable to the Senior Executive Service established under subchapter II of chapter 31 of title 5. The Secretary of Defense (or his designee) may—

"(A) adopt administratively those provisions of title 5 that are necessary to administer the Senior Defense Intelligence Executive Service,

"(B) appoint individuals to positions established within the Senior Defense Intelligence Executive Service, and

"(C) notwithstanding any limitation on compensation, pay individuals so appointed according to the pay prescribed by title 5 for the Senior Executive Service. Any provisions so adopted shall be subject to the same limitations imposed by the comparable provisions of title 5, including the limitation on aggregate pay under section 5383(b) of such title.

"(2) (A) The Secretary of Defense (or his designee) may establish not more than twenty-seven positions (and appoint individuals thereto) in the Senior Defense Intelligence Executive Service.

"(B) In addition to the positions established under subparagraph (A), the Secretary of Defense (or his designee) may establish and appoint individuals in the Defense Intelligence Agency to—

"(i) professional engineering and scientific positions primarily concerned with research, evaluation, and development activities; and

"(ii) professional positions in the physical and natural sciences, medicine, and military intelligence.

Such positions shall be in the Senior Defense Intelligence Executive Service.

"(3) (A) (i) During any fiscal year, the President, based on the recommendation of the Secretary of Defense may, subject to clause (ii) and subparagraph (B), award to any Senior Defense Intelligence Executive Service appointee the rank of—

"(i) Meritorious Defense Intelligence Executive for sustained accomplishment, or

"(ii) Distinguished Defense Intelligence Executive for sustained extraordinary accomplishment.

"(B) A Senior Defense Intelligence Executive Service appointee awarded a rank under subclause (i) or (ii) of clause (1) shall not be entitled to be awarded that rank during the following four fiscal years.

"(B) During any fiscal year—

"(i) the number of Senior Defense Intelligence Executive Service appointees awarded the rank of Meritorious Defense Intelligence Executive may not exceed 5 per centum of the Senior Defense Intelligence Executive Service; and

"(ii) not more than one Senior Defense Intelligence Executive Service appointee or 1 per centum of all Senior Defense Intelligence Executive Service appointees, whichever is greater, may be awarded the rank of Distinguished

"(C) (i) A Senior Defense Intelligence Executive Service appointee who is awarded the rank of Meritorious Defense Intelligence Executive or Distinguished Defense Intelligence Executive shall receive a lump sum payment in the amount specified in section 4507(e) (1) or (2) of title 5, respectively.

"(ii) Any award under this paragraph shall be in addition to basic pay or any performance awards.

"(4) The Director of the Defense Intelligence Agency may, in accordance with the provisions of section 3396(c) of title 5, grant a sabbatical to any Senior Defense Intelligence Executive Service appointee.

"(5) Annual leave accrued by an individual while serving in a Senior Defense Intelligence Executive Service position shall not be subject to the limitations on accumulation imposed by section 6304 of title 5.

"(6) The Director of the Defense Intelligence Agency shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate at the time the budget is submitted by the President to the Congress during each odd-numbered calendar year, a report on the Senior Defense Intelligence Executive Service. Such report shall include—

"(A) the percentage of senior executives at each pay rate employed, at the end of the preceding fiscal year;

"(B) the number, distribution, and amount of performance awards paid during the preceding fiscal year; and

"(C) the number of individuals removed from the Senior Defense Intelligence Executive Service for less than fully successful performance.

"(c) The Secretary of Defense (or his designee) is authorized, consistent with section 5341 of title 5, to adopt such provisions of such title as provide for prevailing rate systems of basic compensation for positions in or under which the Defense Intelligence Agency may employ prevailing rate employees (within the meaning of section 5342 (A) of such title).

"(d) Officers and employees of the Defense Intelligence Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 5941(a) of title 5 for employees whose rates of basic compensation are fixed by statute.

"(e) Nothing in this section or any other law may be construed to require the disclosure of the organization or any function of the Defense Intelligence Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such Agency, except for that information required by the Congress to accomplish normal authorization and appropriation functions.

"(f) (1) Notwithstanding the personnel management laws under title 5, or any other law, the Secretary of Defense may, in his discretion, terminate the employment of any civilian officer or employee of the Defense Intelligence Agency whenever he deems such termination necessary or advisable in the interests of the United States.

"(2) Any termination under this subsection shall not affect the right of the officer or employee involved to seek or accept employment with any other department or agency of the United States if he is declared eligible for such employment by the Office of Personnel Management.

"(3) The Secretary of Defense may delegate authority under this subsection only to the Deputy Secretary of Defense and the Director of the Defense Intelligence Agency. An action to terminate any civilian officer or employee by either such officer shall be appeal-

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(b) The table of sections for chapter 81 of title 10, United States Code, is amended by inserting after the item relating to section 586 the following new item:

"1 Civilian personnel management in the Defense Intelligence Agency."

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EARLY RETIREMENT IN THE SENIOR DEFENSE INTELLIGENCE EXECUTIVE SERVICE

SEC. 603. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (k) as subsection (l) and inserting immediately after subsection (j) the following new subsection:

"(k) A member of the Senior Defense Intelligence Executive Service who is removed from the Senior Defense Intelligence Executive Service for less than fully successful performance after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity."

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336 (d), (h), or (j)" and inserting in lieu thereof "section 8336 (d), (h), (j), or (k)".

VETERANS' PREFERENCE IN THE SENIOR DEFENSE INTELLIGENCE EXECUTIVE SERVICE

SEC. 604. Paragraph (3) of section 2108 of title 5, United States Code, is amended by inserting "the Senior Defense Intelligence Executive Service," after "Senior Executive Service".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 605. (a) Section 5102(a) (1) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of clause (viii);

(2) by inserting "or" at the end of clause (ix); and

(3) by inserting the following new clause at the end of clause (ix):

"(A) the Defense Intelligence Agency, Department of Defense;"

(b) Section 5342(a) (1) of such title is amended—

(1) by striking out "or" at the end of subparagraph (I);

(2) by inserting "or" at the end of subparagraph (J); and

(3) by inserting the following new subparagraph after subparagraph (J):

"(K) the Defense Intelligence Agency, Department of Defense;"

(c) Section 7103(a) (3) of such title is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by inserting "or" at the end of subparagraph (G); and

(3) by inserting the following new subparagraph after subparagraph (G):

"(H) the Defense Intelligence Agency;"

EFFECTIVE DATE

SEC. 606. The amendments made by this [title] subtitle shall take effect on the first day of the first pay period which begins after the thirtieth day following the date of the enactment of this Act.

Subtitle B—National Security Agency

SEC. 611. This subtitle may be cited as the "Senior Cryptologic Executive Service Act of 1981".

SEC. 612. (a) The Secretary of Defense (or his designee) may establish a Senior Cryptologic Executive Service within the National Security Agency comparable to the Senior Executive Service established under subchapter II of chapter 31 of title 5, United States Code. Under the authority of the Secretary of Defense, the Director, National Security Agency, is authorized to adopt administratively those provisions of title 5, United States Code, that the Director considers necessary to administer the Senior Cryptologic Executive Service and to appoint, without regard to the civil service laws, individuals to positions established

within the Senior Cryptologic Executive Service.

(b) The Secretary of Defense or his designee may promulgate regulations establishing a Senior Cryptologic Executive Service which—

(1) meets the requirements set forth in section 3131 of title 5, United States Code, for the Senior Executive Service;

(2) provides that positions in the Senior Cryptologic Executive Service meet requirements which are consistent with those in section 3132(a) (2) of title 5, United States Code;

(3) notwithstanding any limitation on compensation set out in any other law, provides rates of pay for the Senior Cryptologic Executive Service which are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 of title 5, United States Code, and which are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

(4) provides a performance appraisal system for the Senior Cryptologic Executive Service that is consistent with the principles of the provisions of subchapter II of chapter 43 of title 5, United States Code;

(5) provides for removal consistent with section 3592 of title 5, United States Code, and removal or suspension consistent with subsections (a), (b), and (c) of section 7543 of such title 5; except that any hearing or appeal to which an employee is entitled shall be held or decided pursuant to procedures established by regulation of the Secretary of Defense or his designee;

(6) permits the Director, National Security Agency, to pay performance awards to members of the Senior Cryptologic Executive Service consistent with the provisions applicable to the heads of agencies under section 5384 of title 5, United States Code;

(7) provides that members of the Senior Cryptologic Executive Service may be granted sabbatical leaves in accordance with provisions of section 3396(c) of title 5, United States Code; and

(8) provides that annual leave of a member of the Senior Cryptologic Executive Service shall not be subject to the limitation on accumulations imposed by section 6304 of title 5, United States Code.

(c) The President, based on the recommendations of the Secretary of Defense, may award ranks to members of the Senior Cryptologic Executive Service in a manner consistent with the provisions of section 4507 of title 5, United States Code.

(d) Notwithstanding any other provision of this Act, the Director, National Security Agency, may detail or assign outside the National Security Agency individuals appointed to the Senior Cryptologic Executive Service positions in which the appointee's expertise and experience may be of benefit to the National Security Agency or another Government agency and the appointee shall not lose thereby any of the entitlements or status associated with the appointment in the Senior Cryptologic Executive Service.

(e) The National Security Agency shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, at the time the budget is submitted by the President to the Congress during each calendar year, a report on the Senior Cryptologic Executive Service. The report shall include—

(1) the total number of positions added to or deleted from the Senior Cryptologic Executive Service at the end of the preceding fiscal year;

(2) the percentage of senior executives at each pay rate employed at the end of the preceding fiscal year;

(3) the number, distribution, and amount

paid, and ranks awarded during the preceding fiscal year; and

(4) the number of individuals removed from the Senior Cryptologic Executive Service for less than fully successful performance.

SEC. 613. (a) (1) Section 8336 of title 5, United States Code, is amended by redesignating subsections (i), (j), and (k) as subsections (j), (k), and (l) and inserting immediately after subsection (h) the following new subsection:

"(l) A member of the Senior Cryptologic Executive Service who is removed from the Senior Cryptologic Executive Service for less than fully successful performance after completing twenty-five years of service or after becoming fifty years of age and completing twenty years of service is entitled to an annuity."

(2) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336 (d), (h), and (j)" and inserting in lieu thereof "section 8336 (d), (h), (j), or (k)".

(b) Section 2108 of title 5, United States Code, is amended by inserting "the Senior Cryptologic Executive Service" before "or the General Accounting Office."

SEC. 614. The Director, National Security Agency, may promulgate regulations establishing a merit pay system for such employees of the National Security Agency as the Director considers appropriate. The merit pay system shall be designed to carry out purposes consistent with those set forth in section 5401(a) of title 5, United States Code.

SEC. 615. The amendments made by this subtitle shall take effect on the date of the enactment of this Act.

Mr. WALLOP. Mr. President, I have the privilege and honor this year of introducing the intelligence authorization bill, which authorizes appropriations for U.S. intelligence activities for fiscal year 1982.

This legislation authorizes appropriations for those programs and activities of the U.S. Government which serve the intelligence needs of our national policymakers. This includes the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and the national intelligence activities of the Departments of Defense, State, Treasury, and Energy, the Federal Bureau of Investigation, and the Drug Enforcement Administration. This bill also includes a number of legislative provisions which are designed to enhance the effectiveness of our intelligence agencies.

Annual budget authorization is one of the principal means of providing effective congressional oversight of U.S. intelligence activities. It is also regarded by the committee as one of the key means of strengthening and improving the intelligence system. Each year, the committee conducts a comprehensive review of the intelligence budget request, which includes testimony by the Director of Central Intelligence, key Defense Department officials, and each of the principal program managers.

During the course of the budget authorization process this year, the committee focused its attention on how well the intelligence community was prepared to meet its overall responsibilities, major gaps and deficiencies in current capabilities, and the actions necessary to insure the intelligence system is able to cope with future policymakers' needs.

The committee indicated last year that